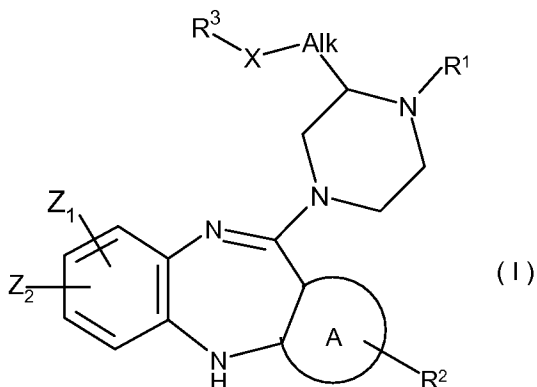


Remarks

In the Office Action the Examiner stated that claims 1-84 were pending in this application. Applicants wish to point out that claims 9-11, 14-20, 23-26, 29, 52-60, 65-72, and 77-84 were cancelled in the Preliminary Amendment filed on June 24, 2005. As such, claims 1-8, 12-13, 21-22, 27-28, 30-51, 61-63, and 73-76 were pending in this application at the time the Office Action was mailed.

The claims have been amended in response to the Office Action. Claims 2-6 and 34-50 have been cancelled. Claim 1 has been amended in response to the Office Action. Applicants assert that the amendment to claim 1 introduces no new matter as it embraces a subset of the originally claimed subject matter. Moreover, the subset of compounds claimed in Claim 1 as amended are expressly preferred on page 7 of the application. New claims 85-86 have been added to more precisely claim specific aspects of the invention. Basis for new claim 85 may be found in Examples 279 and 279(a) on pages 215 – 218 of the application. Basis for new claim 86 may be found in Examples 327(a) and 327(b) on pages 258 – 260 of the application. Entry of the amendments and allowance of the claims in view of the amendments and following discussion are respectfully requested.

The genus claimed in Claim 1 as originally presented was drawn to compounds of the following formula:



where the ring designated “A” was defined to be “an optionally benzo-fused five or six member aromatic ring having zero to three hetero atoms independently selected from N, S, and O”. The Examiner restricted this subject matter under 35 U.S.C. §§121 and 372 into 5 groups based on the definition of ring “A” as described in the following table.

RESTRICTION GROUP	COMPOUND CLASS; RING “A”
I	5H-dibenzo[b,e][1,5]diazepine; A = phenyl
II	10H-thieno[2,3-b][1,5]benzodiazepine; A = thiophene

III	4H-thiazol[5,4-b][1,5]benzodiazepine; A = thiazole
IV	6H-[1]-benzothieno[2,3-b][1,5]benzodiazepine; A = benzothiophene
V	Compounds of formula I not embraced by Groups I-V; A = any other ring

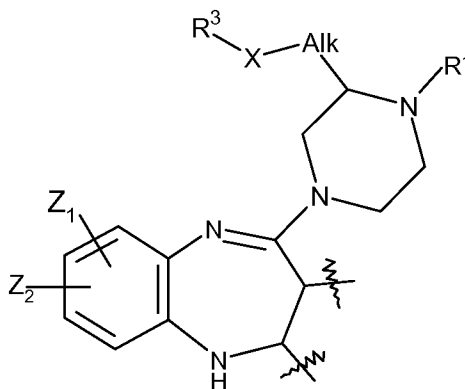
Applicants assert that this restriction requirement is improper, and does not comport with unity of invention principles.

Because this application was filed under 35 USC 371, the PCT unity of invention principles apply to the restriction requirement. The Examiner alleges that the inventions listed above do not relate to a general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. This assessment is simply incorrect.

In a Markush expression such as claim 1, as amended, unity of invention exists when the alternatives are of a similar nature. The alternatives “shall be regarded as being of a similar nature where the following criteria are fulfilled:

- (A) All alternatives have a common property or activity; and
- (B)(1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives; or
- (B)(2) In cases where the common structure cannot be a unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.” (M.P.E.P. §1850(III)(B))

The genus represented in claim 1, as amended, meets the unity of invention requirement because all of the alternatives have a common activity and they all share a significant structural element. All of the compounds of claim 1 are taught to be dopamine D₂ antagonists useful for treating psychotic conditions or mood disorders (page 45, line 20 – page 48, line 3 of the specification). Furthermore, all of the compounds of claim share the following core structure:



This core structure is the dominant portion of all of the compounds of the invention. The variable fused ring "A" constitutes a minor portion of the ring as a whole. As such, Applicants strongly assert that the requirements of unity of invention under PCT Rules 13.1 and 13.2 are fully met. The Examiner's statements regarding whether the alternatives are structural equivalents would only be relevant if the conserved structural elements constituted a minor portion of the structure as a whole. Indeed, the variable ring "A" constitutes a minor portion of the invention as claimed. Applicants assert that a finding of unity of invention for claim 1, as amended, is consistent with the Examples in Chapter 10 of WIPO's International Search and Preliminary Examination Guidelines. (Pages 84 – 87 of the Guidelines accompany this paper for the Examiner's convenience. See, in particular, Examples 19 and 20, paragraphs 10.39 and 10.40.)

Withdrawal of the restriction requirement in view of the amendments and discussion are respectfully requested. In the event the Examiner does not acquiesce in the withdrawal of the restriction requirement, Applicants elect the invention of Group II with traverse. Furthermore, Applicant's elect, solely for purposes of examination, the species of Example 279, with traverse.

Respectfully submitted,

/Robert D. Titus/
Robert D. Titus
Attorney for Applicants
Registration No. 40,206
Phone: 317-277-3729

Eli Lilly and Company
Patent Division
P.O. Box 6288
Indianapolis, Indiana 46206-6288

March 16, 2007